

C-5276

AG Contract No.: KR04-1671TRN  
ADOT ECS File No.: JPA 04-136  
Project: Grand Avenue Underpass  
Public Involvement Activities  
Section: 59<sup>th</sup> Avenue & Glendale Avenue  
TRACS No.: H3899 11X  
Budget Source Item No.: 73104

**INTERGOVERNMENTAL AGREEMENT**

BETWEEN  
THE STATE OF ARIZONA  
AND  
THE CITY OF GLENDALE

THIS AGREEMENT is entered into 27th April, 2005, pursuant to Arizona Revised Statutes, § 11-951 through § 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF GLENDALE, ARIZONA, acting by and through its MAYOR and CITY COUNCIL (the "City").

**I. RECITALS**

1. The State is empowered by Arizona Revised Statutes § 28-401 and § 28-334 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes § 48-572 and to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.

3. The State and the City mutually agree to enter into this Agreement to provide funding for public involvement services ("services") on the Grand Avenue underpass construction project at 59<sup>th</sup> Avenue and Glendale Avenue, hereinafter referred to as the "Project", for the safety and benefit of the traveling public. The City will, through the competitive process, award a contract to a consulting firm to serve as a construction liaison to notify the public and related City's business community(ies) for services on the Project, which includes but not limited to the construction impacts, progress and respond to questions and/or concerns raised. The State will provide a monetary contribution for such services in an amount not to exceed \$180,000.00. The responsibility of each of the parties is defined in this Agreement under Section II. Scope of Work.

4. This Agreement acknowledges the City's commitment to solely fund a supplemental program in the amount of \$407,000.00 to help mitigate economic impacts to local businesses during project construction and ensure merchants and residents are kept informed about construction progress. The City assumes full responsibility for the marketing campaign of Historic Downtown Glendale during construction.

**THEREFORE**, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO. 27484  
Filed with the Secretary of State  
Date Filed: 04/27/05

Janice K. Brewer  
Secretary of State

By: Darryl D. Graenewald

## **II. SCOPE OF WORK**

### **1. The City will:**

a. Award a contract to a consulting firm from the State's qualified vendor list to serve as a construction liaison to notify the public and related City's business community(ies) for services on the Project includes but not limited to the construction impacts, progress and respond to questions and/or concerns raised.

b. On a quarterly basis until final acceptance of the Project by the State or until the amount established in subsection (d) hereof is exhausted, whichever is less, submit a detailed invoice, using the ADOT Progress Payment Report Form, to the State for the reimbursement of the actual costs of the services. The detailed invoice shall include proof to show that the services has been performed, monthly report(s), billing statement(s) and proof to show that the cost(s) has been paid and other related supporting documentation. Request for payment shall be submitted on the "ADOT" Progress Payment Report Form" (attached). Electronic forms can be requested through the Joint Project Administration, at the address provided under Section III. Paragraph 11.

c. Be responsible to provide the State an estimated workload anticipated for services on a monthly basis until final acceptance of the Project by the State or until the amount established in subsection (d) hereof is exhausted, whichever is less.

d. Acknowledge that the total invoice amount to the State under this Agreement for the services shall not exceed \$180,000.00

e. Be responsible for all costs over and above the State's monetary contribution committed herein, and for any construction liaison or claims for extra compensation due to delays or whatever reasons.

### **2. The State will:**

a. On a quarterly basis, upon receipt of a detailed invoice from the City, and after the State representatives have approved the appropriate documentation, reimburse the City for the actual costs of the services performed pursuant to this Agreement. The total reimbursed amount to the City shall not exceed \$180,000.00. The State shall have no other direct or indirect responsibilities with respect to the services.

## **III. MISCELLANEOUS PROVISIONS**

1. The State has no direct interest in the services. The only interest of the State in this Agreement is to provide funding to the City for reimbursing the costs associated with the services.

2. The City agrees to indemnify and save harmless the State, or any of its departments, agencies, officers or employees, from and against all loss, expense, damage or claim of any nature whatsoever which is caused by any activity, services, condition or event arising out of the performance by the City of any of the provisions of this Agreement.

3. The terms, conditions and provisions of this Agreement shall remain in force and effect until completion of said Project and related deposits or reimbursement.

4. The City shall not transfer, sell, assign or otherwise dispose of all or any part of the Agreement or the rights hereunder without prior written consent to the State.

5. This Agreement may be amended at any time upon mutual written agreement between both parties. No agent, employee, or other representative of any party to this Agreement is empowered to alter any of the terms unless it is done in writing and signed by the designed officers of the respective parties, their authorized representatives, or duly appointed successors.

6. This Agreement shall become effective upon filing with the Secretary of State.

7. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

8. The provisions of Arizona Revised Statutes § 35-214 are applicable to this Agreement.

9. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

10. Non-Availability of Funds. Every payment obligation of the State under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

11. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

12. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

**For Agreement & General Correspondence:**

Arizona Department of Transportation  
Joint Project Administration  
205 S. 17th Avenue, Mail Drop 616E  
Phoenix, AZ 85007  
FAX: (602) 712 7424

City of Glendale  
City Manager  
5850 W. Glendale Ave.  
Glendale, AZ 85301  
FAX: (623) 915 1025

**For General Billing / Invoice Correspondence:**

Arizona Department of Transportation  
Communication and Community Partnerships  
ATTN: Community Relations Director  
206 S. 17th Avenue, Mail Drop 118A  
Phoenix, AZ 85007  
FAX: (602) 712 7855

City of Glendale  
ATTN: Assistant Director of Marketing  
and Communications  
5800 W. Glenn Dr., Ste. 150  
Glendale, AZ 85301

13 Pursuant to Arizona Revised Statutes § 11-952, (D), attached hereto and incorporated herein, is the written determination of each party's legal counsel that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

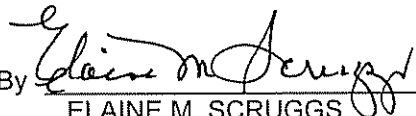
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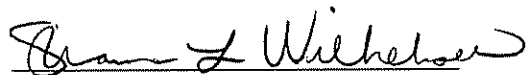
IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

CITY OF GLENDALE

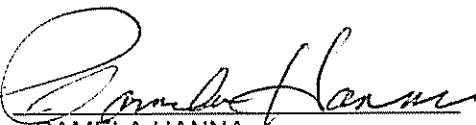
STATE OF ARIZONA

Department of Transportation

By   
ELAINE M. SCRUGGS  
Mayor

By   
SHANNON WILHELMSSEN  
Communication and Community  
Partnerships Director

ATTEST

By   
PAMELA HANNA  
City Clerk

APPROVAL OF THE CITY OF GLENDALE ATTORNEY

I have reviewed the above referenced intergovernmental agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the CITY OF GLENDALE, an agreement among public agencies which, has been reviewed pursuant to A.R.S. section 11-951 through 11-954 and declare this agreement to be in proper form and within the powers and authority granted to the CITY under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 27 TH day of JANUARY, 2005.

A handwritten signature in black ink, appearing to read "Chris", is written over a horizontal line.

City Attorney



TERRY GODDARD  
ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL  
STATE OF ARIZONA

TRANSPORTATION SECTION  
WRITER'S DIRECT NO: 602.542.8837

**INTERGOVERNMENTAL AGREEMENT**  
**DETERMINATION**

A.G. Contract No. KR04-1671-TRN, an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: April 19, 2005

Terry Goddard  
ATTORNEY GENERAL

A handwritten signature in black ink, reading "James R. Redpath", written over a horizontal line.

James R. Redpath  
Assistant Attorney General  
Transportation Section

JRR:dgr  
Attachment  
901267